

NAVAL WAR COLLEGE
Newport, RI

CHINA'S MARITIME CLAIMS IN THE SOUTH CHINA SEA:
THE THREAT TO REGIONAL STABILITY AND U.S. INTERESTS

By

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A paper submitted to the Faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

Signature: _____

05 February 2001

20010511 058

1. Report Security Classification: UNCLASSIFIED			
2. Security Classification Authority:			
3. Declassification/Downgrading Schedule:			
4. Distribution/Availability of Report: DISTRIBUTION STATEMENT A: APPROVED FOR PUBLIC RELEASE; DISTRIBUTION IS UNLIMITED.			
5. Name of Performing Organization: JOINT MILITARY OPERATIONS DEPARTMENT			
6. Office Symbol: C		7. Address: NAVAL WAR COLLEGE 686 CUSHING ROAD NEWPORT, RI 02841-1207	
8. Title (Include Security Classification): CHINA'S MARITIME CLAIMS IN THE SOUTH CHINA SEA: THE THREAT TO REGIONAL STABILITY AND U.S. INTERESTS (U)			
9. Personal Authors: Lieutenant Commander Brent E. Smith, USN			
10. Type of Report: FINAL		11. Date of Report: 05 February 2001	
12. Page Count: 40		12A Paper Advisor (if any):	
13. Supplementary Notation: A paper submitted to the Faculty of the NWC in partial satisfaction of the requirements of the JMO Department. The contents of this paper reflect my own personal views and are not necessarily endorsed by the NWC or the Department of the Navy.			
14. Ten key words that relate to your paper: South China Sea, China, Spratly Islands, regional stability, SLOC, territorial sea, maritime claim, exclusive economic zone, operational factors, freedom of navigation			
15. Abstract: The South China Sea is a strategically important geographic area for the United States. The U.S. depends on the free flow of maritime traffic through this region. China's excessive maritime claims are adversely affecting freedom of navigation and regional stability. The People's Republic of China (PRC) has maintained its claim to sovereignty over the South China Seas and the islands contained therein. The sovereignty claims of the People's Republic of China are the most sweeping, and directly challenge all other sovereignty claims in the South China Sea. China's current maritime claims also violate the international law of the sea. These claims already designate large sections of the South China Sea as Chinese territorial sea, and threaten to do so for an even larger area of the sea. These actions could threaten vital Sea Lines of Communication (SLOC) that traverse the South China Sea. While official U.S. policy is to take no position as to the legal merits of the competing territorial claims, the Commander in Chief of the South China Sea area of operation (U.S. PACOM) should take into consideration the effect these claims have on factors space, time, and force. Operations should be routinely scheduled to challenge China's claims.			
16. Distribution / Availability of Abstract:	Unclassified X	Same As Rpt	DTIC Users
17. Abstract Security Classification: UNCLASSIFIED			
18. Name of Responsible Individual: CHAIRMAN, JOINT MILITARY OPERATIONS DEPARTMENT			
19. Telephone: 841-6461		20. Office Symbol: C	

Security Classification of This Page Unclassified

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Introduction:

The South China Sea is a strategically important geographic area for the United States. As a maritime nation, the U.S. depends on the free flow of maritime traffic worldwide. The South China Sea region is one of the busiest waterways for commercial maritime trade. The U.S. and our Asian trading partners have become increasingly dependent on the flow of commodities, including petroleum through the South China Sea. China is the dominant power in Southeast Asia. The People's Republic of China (PRC)*, the communist government of mainland China, has maintained its claim to sovereignty over the South China Seas and the islands contained therein. The South China Sea islands are spread out over great distances in the South China Sea. Multiple nations claim sovereignty over these South China Sea islands.

China's excessive maritime claims in the South China Sea are adversely affecting freedom of navigation in the South China Sea and regional stability in Southeast Asia. The sovereignty claims of the People's Republic of China are the most sweeping, and directly challenge all other sovereignty claims in the South China Sea. The economic interests associated with these islands have heightened tensions in the region. The result has been various military conflicts among the island claimants over the past two decades.

China's current maritime claims also violate the international law of the sea. These claims already designate large sections of the South China Sea as Chinese territorial sea, and threaten to do so for an even larger area of the sea. Chinese law associated with these claims place unlawful restrictions on free navigation.

* Throughout this paper the term "China" will be used to denote the claims of the People's Republic of China (PRC).

China's Current Maritime Claims

Maritime claims have been a long-standing concern for the world's coastal nations. It has been viewed, in essence, as an extension sovereign 'land.' Each coastal nation maintained differing views on what waters it claimed as sovereign territory, based on local laws and traditions. These claims often conflicted with neighboring nations, or were so vast that they affected other nations' freedom of navigation.

The United Nations (UN) has endeavored to establish a common set of laws that govern the establishment of territorial seas and areas in which nations have exclusive economic rights. The Third United Nations Conference on the Law of the Sea "(...)" produced the 1982 United Nations Convention on the Law of the Sea (UNCLOS).¹ UNCLOS established international laws governing the establishment of baselines from which nations could claim a 12 nautical mile territorial sea, as well as laws regarding the establishment Exclusive Economic Zones (EEZ) in which nations enjoy sovereign rights for economic purposes. On 25 February 1992, the PRC enacted laws to establish these various maritime zones.² The People's Republic of China subsequently ratified UNCLOS in May 1996.³

The baselines established by the PRC in 1992, from which the PRC measures its territorial seas are not in accordance with the U.S. interpretation of UNCLOS.* The United States has protested and does not recognize the manner in which China has established these baselines.

* The United States announced in 1983 that it would neither sign nor ratify UNCLOS due to what were viewed as fundamental flaws in its deep seabed mining provisions. These concerns were resolved and adopted by the United Nations General Assembly on July 28, 1994. The President of the United States sent the revised UNCLOS to the Senate for its advise and consent to accession and ratification. It has yet to be ratified.

UNCLOS allows coastal nations to establish straight baselines “where the coastline is deeply indented or where there is a fringe of islands along the coast in its *immediate* (emphasis added) vicinity (...).”⁴ The straight baselines established by the PRC along the mainland of China are depicted in figure 1. The method the PRC used in establishing its baselines is found in Article 3 of their 1992 law: “The method of straight baselines composed of all straight lines joining the adjacent base points shall be employed in drawing the baselines of the territorial sea of the People’s Republic of China.”⁵ The PRC’s liberal application of straight baselines does not measure up to the requirements of UNCLOS. Straight baselines have been drawn to include islands that are not in the *immediate* vicinity of the coast. Some of these coastal “fringe” islands are as far as 100 nautical miles from the Chinese mainland. In addition, the baselines establish large bodies of water as Chinese inland waters, which is not in accordance with the 24 nautical mile semi-circle test* outlined in UNCLOS.⁶

The PRC at the same time established straight baselines around the Paracel Islands as if China was an archipelagic nation. “An archipelagic nation is a nation that is constituted *wholly* of one or more groups of islands (emphasis added). Such nations may draw straight archipelagic baselines joining the outermost points of their outermost islands, provided that the ratio of water to land within the baselines is between 1 to 1 and 9 to 1.”⁷ “According to the 1982 Convention on Law of the Sea, the application of the archipelagic principle is limited to archipelago states only.”⁸

* The Baseline across a mouth of a bay may not exceed 24 nautical miles in length. Where the mouth is wider than 24 nautical miles, a baseline of 24 nautical miles may be drawn within the bay so as to enclose the maximum water area.

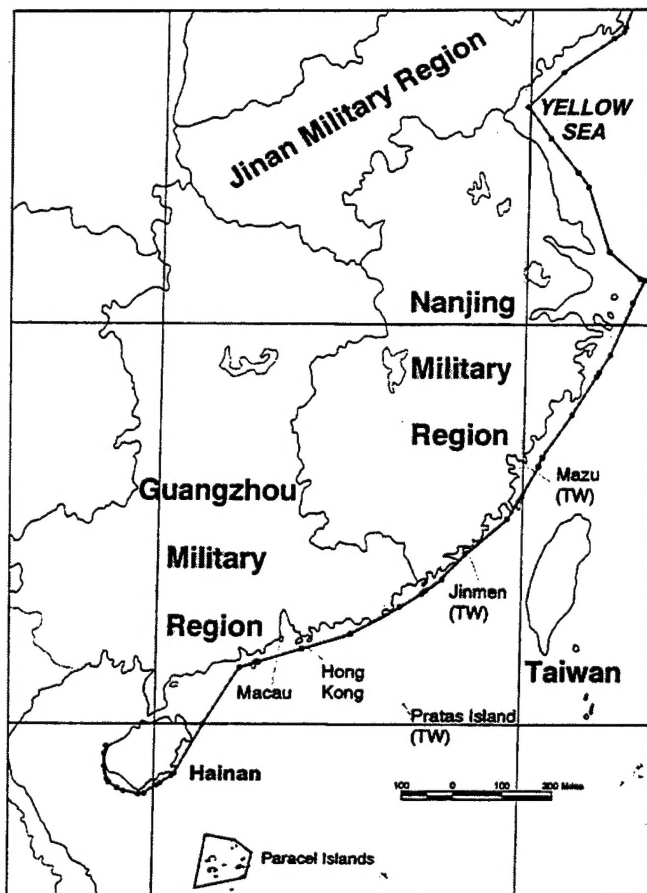


Figure 1. Chinese declared baselines⁹

The straight baselines established by the PRC around the Paracel islands are depicted in figure 2. China cannot make the claim that it is an archipelagic nation comprised *wholly* of islands. But the PRC's maritime claims fall short in two other areas. First, assuming that China was authorized by UNCLOS to establish straight archipelagic baselines, the Paracel islands still do not meet the maximum 9 to 1 requirement for water to land.

Second, each island may have its own territorial sea. As defined by UNCLOS, an island must be able to sustain human habitation or economic life. If it cannot sustain human habitation, but is above water at high tide, it is considered a rock. Rocks may

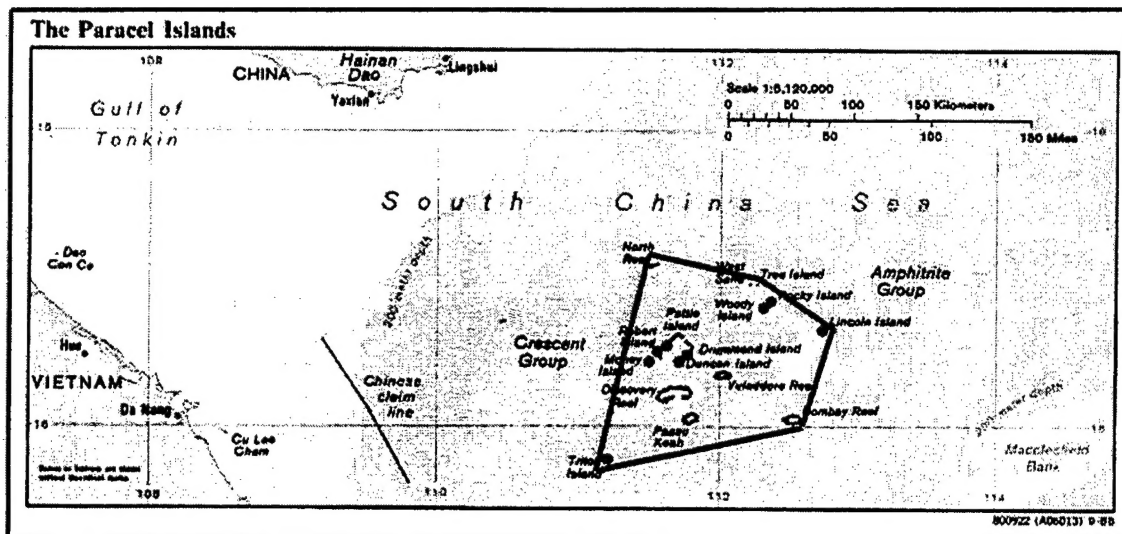


Figure 2. China's Archipelagic baselines¹⁰

have their own territorial sea, but the Convention on the Law of the Sea states that “rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone (EEZ) or continental shelf.”¹¹ If the feature does not remain above water at high tide, it may also have a territorial sea, *provided it is inside the territorial sea* of the nation, else it has no territorial sea of its own (emphasis added).¹²

The PRC claim fails to comply with the requirements of UNCLOS on this front as well. The Paracel baselines are drawn using reefs incapable of sustaining human habitation. The PRC (as well as other South China Sea nations) have gone to extreme lengths to establish the ability to “sustain human habitation” on the Paracel and other South China Sea “islands”. This will be examined more fully later in this paper.

The 1992 law enacted by the PRC also restricts the right of innocent passage for foreign military vessels. “International law provides that ships (...) of all nations enjoy the right of innocent passage for the purpose of continuous and expeditious traversing of the territorial sea (...).”¹³ This right of innocent passage includes warships of foreign

nations. However, Article 6 of the PRC's 1992 law states, "Foreign ships for military purposes shall be subject to approval by the Government of the People's Republic of China for entering the territorial sea of the People's Republic of China."¹⁴ The United States maintains its right of innocent passage for its warships on an unannounced basis.

The three issues outlined above, straight baselines, archipelagic baselines, and the right of innocent passage are all important operational issues to the commander for maintaining freedom of navigation in the South China Sea. However, when the PRCs actions are viewed in the context of ongoing territorial disputes in the South China Sea region, it gains even more significance. Do the PRC's actions to date foretell possible actions in other contested areas of the South China Sea? This question will be examined as we look at the competing territorial claims in the South China Sea.

Claims on the South China Sea Islands

For the operational commander to understand and influence events in the South China Sea area of operation, it is essential to understand the territorial and economic claims of the various regional actors. Since this paper is specifically focused on the claims of China, the other regional powers will be examined only to the extent their actions and claims influence those of the PRC.

The extent of China's claim to the South China Sea and its islands can be seen in Chinese history of the area. Figure 3 depicts what the Chinese have historically claimed to be the extent of China's claim in the South China Sea. "In most maps produced in China, a line, keyed as the 'national boundary' of China has been drawn to enclose a vast area of waters in the South China Sea. It looks like a large tongue extending from the

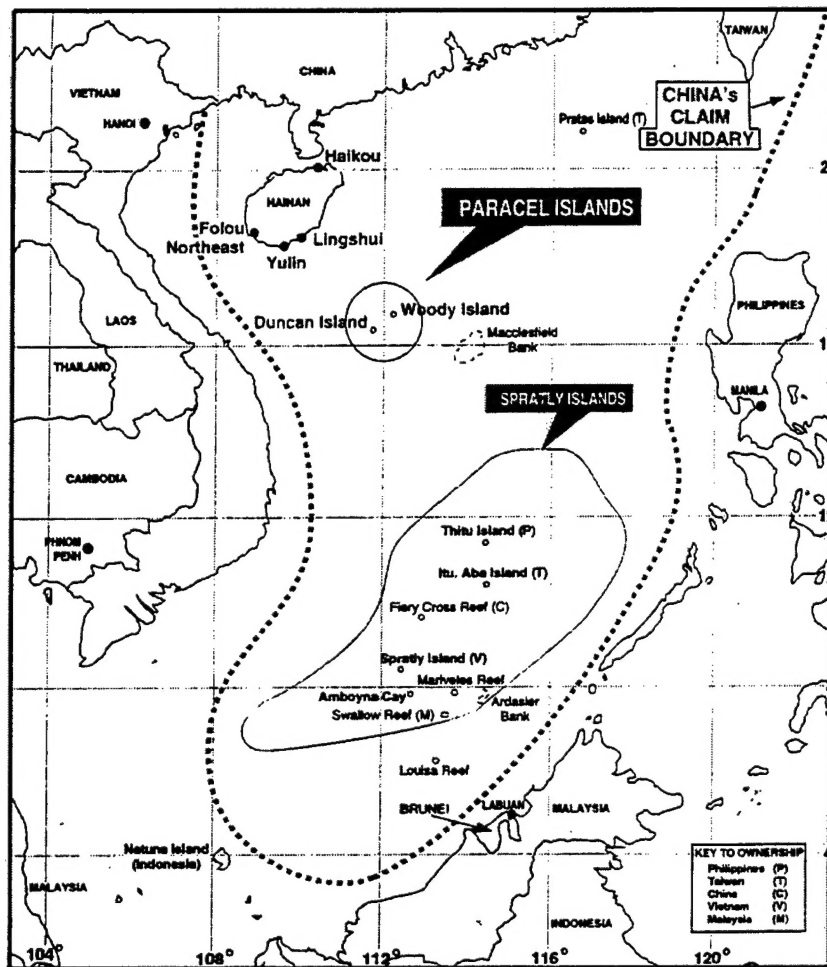


Figure 3. China's historic territorial claim¹⁵

coast of southern China sweeping along the western coast of the Philippine Palawan and the eastern coast of Vietnam, and reaching the northern coast of Malaysian Borneo.”¹⁶

While the PRC has not shown an overt attempt to press these claims, it does provide the commander with an idea of the Chinese perspective. From this historical claim springs China's claim to the South China Sea island groups. “In the South China Sea, China actually claims sovereignty over four different island groups—Paracels, Spratlys, Pratas, and the Macclesfield Bank.”¹⁷

Pratas Island is located approximately 270 nautical miles southwest from the island of Taiwan. It is a single island surrounded by Pratas reef on the east side of the island. The Republic of China (ROC) – the Chinese government in exile on the island of Taiwan, currently occupies Pratas Island. The ROC also occupies and claims other islands, many of which are located close to the coast of mainland China. The PRC views Taiwan as a renegade province. By extension, any island held and occupied by the ROC is Chinese sovereign territory from the perspective of the PRC.*

“The Paracel archipelago is a group of 15 islands and several sand banks and reefs. They are situated less than 150 nautical miles from the southern coast of China’s Hainan Island, and about 240 nautical miles from Da Nang in Vietnam.”¹⁸ Both China and Vietnam claim the Paracel Islands to be sovereign territory based on historical claims. France claimed the Paracel Islands in the 1930’s on behalf of its then-colony Vietnam.¹⁹ The Japanese occupied the islands during World War II. Post-World War II the Paracel Islands were occupied by the Vietnamese. “In 1974, China defeated South Vietnamese forces in a series of land and sea engagements and ousted them from the islands.”²⁰ The PRC currently maintains an occupying force on some of the islands. Vietnam still maintains its claim of sovereignty over the islands, even though they have been evicted.

The Macclesfield Bank lies approximately 75 nautical miles east of the Paracel Islands. As of this date, there has been no human habitation established on the Macclesfield Bank. However, Chinese claims consistently mention the Bank as a Chinese possession. Even though the bank is not above the water at high tide, this might

* Both Chinese Governments have consistently claimed all of the South China Sea islands are Chinese territory. The case of PRC vs ROC as the legitimate government of China will not be debated in this paper.

not be an impediment to further development, as will be seen when in the discussion on the Spratly Islands.

“The Spratly archipelago (...) is a group of more than 100 islets, reefs, shoals, and sand banks scattered over a large area in the southern part of the South China Sea. The archipelago stretches for more than 500 nautical miles from north to south.”²¹ The Spratly Islands are even more contentious than the Paracel Islands. There are six competing claimants to some or all of the Spratly Island group. Five of these claimants currently occupy features in the Spratly Islands (see figure 4). Brunei, the sixth claimant, does not occupy any of the islands. However, in 1984, Brunei established an Exclusive Economic Zone that extends out into the South China Sea. This EEZ includes Louisa Reef, the southern-most reef.²²

Malaysia’s claims are based on the continental shelf principle. Malaysia currently occupies three islands in the south Spratly Islands. Believing these islands to be a part of its continental shelf, Malaysia has made a concerted effort to build-up these “islands,” including going through the effort to bring soil from the mainland to expand one atoll.²³ Malaysia’s build-up appears to have agitated Vietnam more than China at this point. There is an ongoing tit-for-tat build-up of claimed islands between the two parties.

The Philippines currently claims and occupies eight islands. The Philippine Spratly Island claims are based on proximity to the Philippine archipelago, as well as the exploration of a Philippine explorer who found them not to be occupied or claimed in 1956. The Philippines refer to these eight features as the Kalayaan, and in 1972 designated them as part of the Palawan Province.²⁴

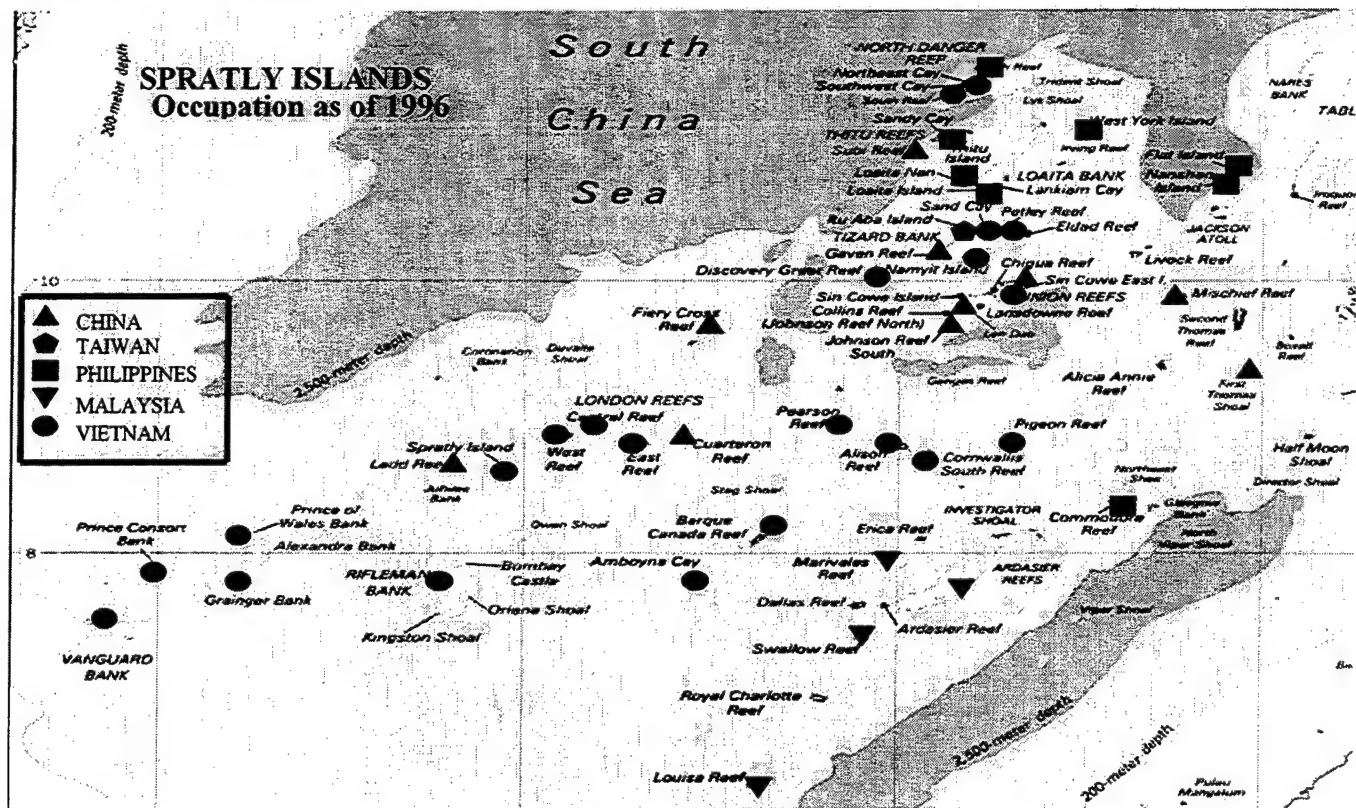


Figure 4. "Spratly Occupation"²⁵

Vietnam's claim to the islands is based on history and the continental shelf principle. Vietnam claims the entire Spratly Islands as an offshore district of the province of Khanh Hoa.²⁶ Vietnamese expansion into the region has been by far the largest. They currently occupy 25 different features. In fact, it is believed to have been Vietnamese expansion into the Spratly group that prompted the PRC to take action in 1974 to reclaim the Paracel Island group. Vietnam's historical claims are based in part on France claiming the islands for Vietnam in the 1930's.

China's historical claims to the Spratly Islands pre-date other claims. "Chinese claims are based on a number of historical events, including the naval expeditions to the Spratly Islands by the Han Dynasty in 110 AD and the Ming Dynasty from 1403-1433 AD."²⁷ The Japanese occupied the Spratly Islands during World War II, just like most islands in the Pacific. Since then, Taiwan has maintained the longest continuous presence in the Spratly Islands. Taiwan has continuously occupied Itu Aba Island, the largest of the Spratly islands since the mid-1950s. "It is quite possible that Beijing considered the troops from Taiwan to be legitimate Chinese occupation forces, implicitly enforcing PRC claims."²⁸ The PRC currently occupies only six features in the Spratly Islands. A large Chinese build-up has occurred on Mischief Reef, a feature claimed by the Philippines.

The Chinese stance on the Spratly and Paracel islands has been consistent over time. The Chinese have consistently stated that the islands "(...) have always been a part of Chinese territory. The People's Republic of China has indisputable, legitimate sovereignty over the islands."²⁹ An even more telling statement on how the PRC views the Spratlys can be seen in a Declaration from the Government of China to the United Nations Secretary-General in response to Philippine claims to some of the Spratly

Islands. This declaration states that “(...) the sovereignty and interests of the People’s Republic of China over its territory of the Nansha (Spratly) Islands, [China] has the honour to reiterate as follows: The so-called Kalayaan Islands are part of the Nansha Islands, which have always been Chinese territory. The Chinese Government has stated on many occasions that China has indisputable sovereignty over the Nansha Islands and the adjacent waters and resources.”³⁰

Economic Factors

“The Spratlys’ economic value is currently limited to commercial fishing and phosphate mining.”³¹ So why is there so much interest in these coral outcroppings, which in most cases are not above water at high tide? Most likely, all claimants are interested in what lies beneath the seabed in this area. Putting nationalistic feelings and historical claims aside, it is economic factors that are likely to spur these claimants to devote more and more resources to the Spratly Islands.

“The South China Sea is rich in natural resources such as oil and natural gas. These resources have garnered attention throughout the Asia-Pacific region. (Asia’s) economic growth will be accompanied by an increasing demand for energy. Over the next 20 years, oil consumption among developing Asian countries is expected to rise by 4% annually on average, with about half of this increase coming from China. If this growth rate is maintained, oil demand for these nations will reach 25 million barrels per day - more than double current consumption levels -- by 2020.”³²

There are already many active oil and gas operations in the South China Sea. Every claimant is actively exploring for oil and gas in its respective EEZs. This is particularly true in the southern portion of the South China Sea off the coasts of Malaysia and Brunei.

“The most optimistic (Chinese) estimate suggests that potential oil resources (not proved reserves) of the Spratly and Paracel Islands could be as high as 105 billion barrels of oil, and that the total for the South China Sea could be as high as 213 billion barrels. (...) Chinese estimates imply potential production levels for the Spratly Islands of 1.9 million barrels/day.”³³

Any claimant that can establish sovereignty over the Spratly Islands, would most likely try to establish a territorial sea and Exclusive Economic Zone around the island(s). This would give the sovereign nation exclusive rights to the oil and gas that lie in the seabed. Since this paper is focused on the effect of Chinese claims, the claims of the other five claimants will not be examined, nor will the validity of their claims be debated. One could say that the Chinese mindset is well established. As was stated earlier, China has consistently maintained its stance of irrefutable and indisputable sovereignty over the islands. This has been the same party line stated with respect to the Paracel Islands, before and since their occupation in 1974.

Since China established archipelagic baselines for the Paracel Islands, there is no reason to believe that it would not establish archipelagic baselines around the Spratlys if it chose to enforce its claim of sovereignty. Since the UNCLOS requirements for what constitutes an archipelagic nation, what constitutes an island, as well as water to land ratio did not stand in China's way in declaring its present baselines, one has to believe that “minor technicalities” would not stand in its way with regards to the Spratlys. As such, claiming archipelagic baselines around the Spratly Islands would make vast areas of the South China Sea Chinese territorial waters.

Figure 5 depicts what the resulting territorial sea and EEZ claims might be if China chose this course of action.* The EEZ shown is based on a 200 mile claim. "This would mean that China's 'internal waters' within the Spratly archipelago would overlap to a significant extent with the EEZs, or the sea areas above the continental shelves, of the surrounding coastal states."³⁴ The EEZ on figure 5 does not take into account the overlap between of this "Chinese EEZ" and other nation's EEZs. The ability to adjudicate this overlap in a peaceful manner is doubtful. The other nations involved will not be willing to give-up their economic claims.

To this point, China has maintained its position of sovereignty over the islands, but has not resorted to force to evict the other claimants from the islands. As the dominant military power in the region, it have the capability to do just that. However, it does not seem ready to incur the international outrage a wholesale takeover of the islands would bring. China has recently entered into discussions regarding the islands with some of the other claimants. Whether this indicates an actual softening in China's position remains to be seen. Given the potential oil resources in the area, some likely scenarios that could cause military action by China include: (1) China decides it needs the oil and gas and decides it needs to establish complete control of the islands to protect its claims. (2) One of the other claimants attempts to drill for oil or gas in the Spratlys. (3) Continued expansion into the Spratly Islands by any of the claimants. Any of these situations may force China's hand. With the projected economic resources available in the region, this may well be a powder keg that could go off at any time.

* This is the author's rendition, and is not meant to be a precise measure of distances.

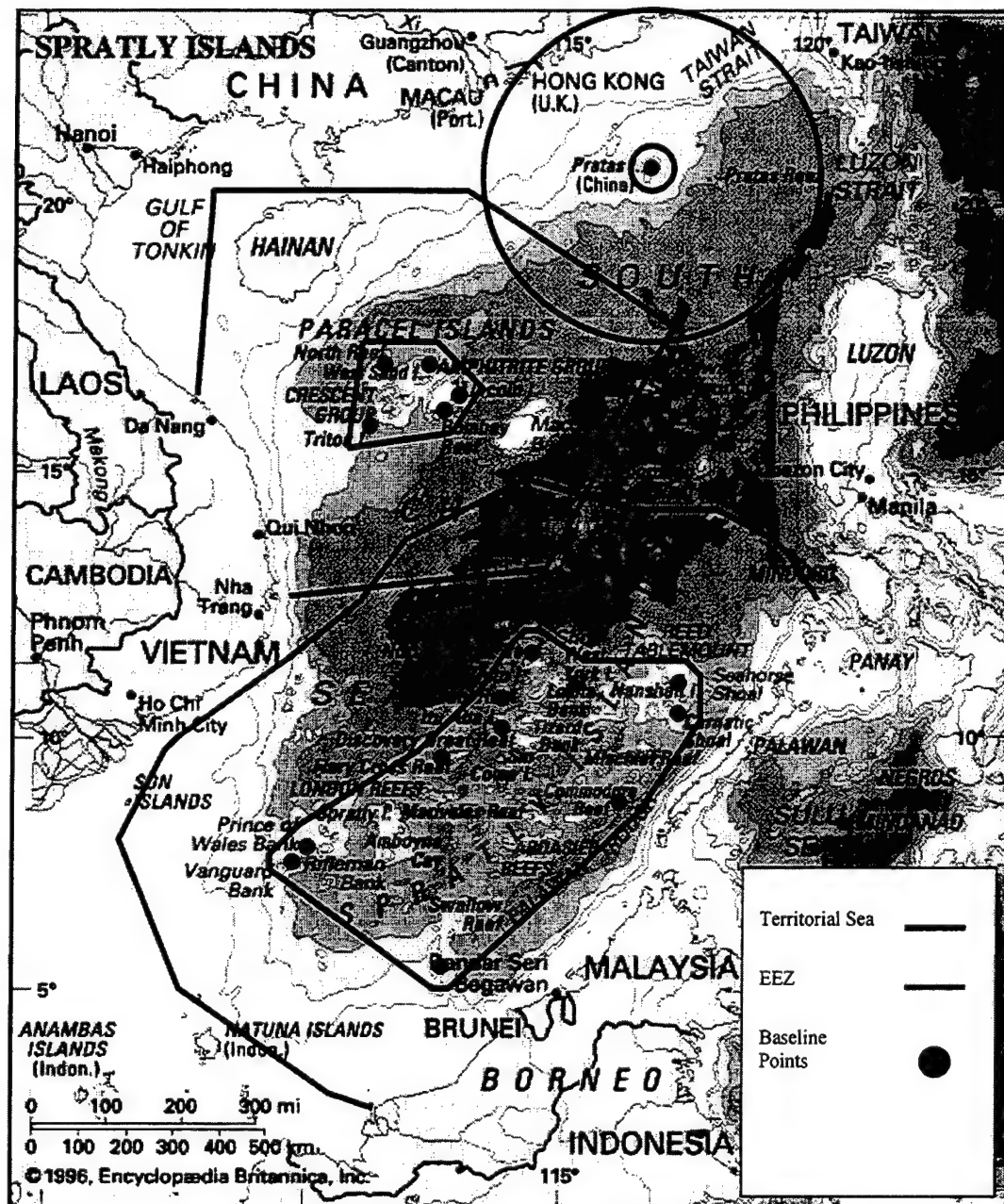


Figure 5. Chinese possible territorial and economic claims.³⁵

Operational Factors Considered

“The art of warfare at all levels is to obtain and maintain *freedom of action*: the ability to carry out critically important, multiple, and diverse decisions to reach assigned military objectives.”³⁶

In any theater of operation, the operational commander must carefully consider and weigh the operational factors of *space*, *time*, and *forces*. Given the complex situation in

the South China Sea, and the high stakes involved, consideration of these operational factors will provide the foundation for operational planning and preparation. This stands true across the spectrum of operational warfare, from peacetime engagement to war.

Factor Space – South China Sea

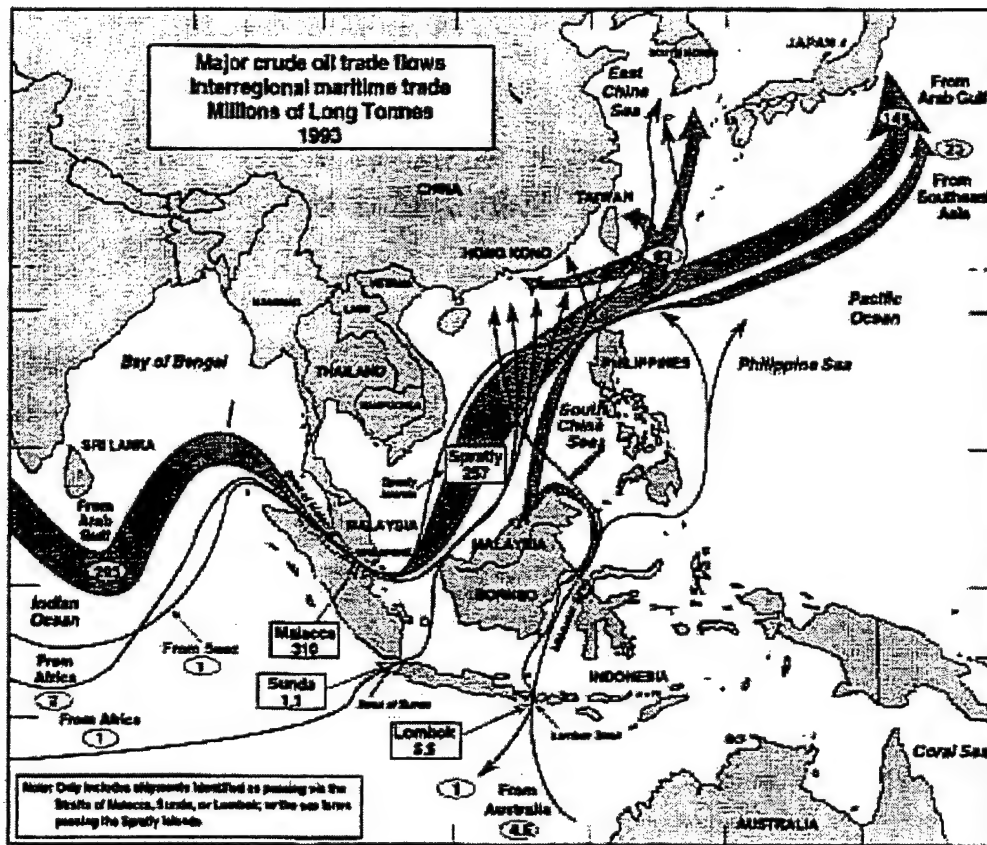
“Space is both the means and an objective to be accomplished. It is the “means” because sufficient space is needed for the conduct of military operations. It is the “objective” because to conduct military operations control of a given space is necessary.”³⁷

Lines of Communication

As discussed earlier in this paper, the Paracel and Spratly Islands have an economic resource value to the different claimants, as it is believed that the South China Sea region holds significant oil and gas reserves. Thus, the country that controls the islands, controls the seabed and the resources contained in the area surrounding the islands. This is important because Asian countries, like the U.S., have seen demand for oil increase. This goes hand-in-hand with an expanding population and growing industrial economies.

Asian domestic oil production is not sufficient to meet needs. Even if the most optimistic estimates of oil in the seabed of these island chains come to fruition, it will not be sufficient to meet an ever increasing demand for oil. “Almost of all of this additional Asian oil demand, as well as Japan's oil needs, will need to be imported from the Middle East and Africa, and to pass through the strategic Strait of Malacca into the South China Sea.”³⁸

Major crude oil Sea Lines of Communication (SLOC) that run through the South China Sea are depicted in figure 6. Crude oil is used for demonstration purposes because all industrial nations are dependent on this resource. This should not be construed to mean that this is the only import resource that is transported through the South China Sea.

Figure 6. Major crude oil Sea Lines of Communication – South China Sea³⁹

As a Maritime nation the U.S. and our trading partners depend on maritime transportation for a whole host of commodities. Significant imports of copper, rubber, and tin (to name a few) are also shipped through the waters of the South China Sea.⁴⁰

Our economy and those of our trading partners depend on the free-flow of goods. This is the nature of a global economy. “Countries in the Asia-Pacific region depend on seaborne trade to fuel their economic growth, and this has led to the (South China) sea's transformation into one of the world's busiest shipping lanes.”⁴¹

Size and Distance

The size of the South China Sea operational area is one of the primary measures of space that the operational commander must consider. "The factor of space must be controlled to such a degree so that operational objectives are achieved."⁴² The larger the area of operations, the more challenging the task of area control for the commander.

The South China Sea is the western arm of the Pacific Ocean. It covers approximately 1,000,000 sq mi (2,590,000 sq km), bordering China, Vietnam, Malaysia, the Philippines, and Taiwan.⁴³ This is a vast area that is comparable in size to a good portion of the western United States.* The Spratly Islands are "100 or so islets, coral reefs, (atolls, shoals), and seamounts scattered over an area of nearly 410,000 square kilometers (158,000 sq mi) of the central South China Sea."⁴⁴ This is an area comparable in size to the State of California.[#]

Occupation and control of the Spratly Islands by any nation would place them in a favorable geostrategic position for control of the South China Sea. Establishing positions on these islands would significantly reduce the area of the South China Sea that would have to be controlled by other assets. The islands could be used as forward bases of operations for power projection in the region, or for the interdiction of the Sea Lines of Communication in the South China Sea. Chinese control over the Spratly Islands, as well as the Paracel Islands and Pratas Island would place China in a position to establish control over a large portion of the South China Sea.

* For comparison purposes, the area encompassed by the states of California, Oregon, Washington, Arizona, Nevada, Idaho, Utah, New Mexico, Colorado, and ½ the state of Wyoming is 2,575,223 sq km. Still shy of the total area of the South China Sea.

The State of California covers 411,470 sq km.

Physical Characteristics

Discussion of the physical characteristics of the South China Sea islands will focus on the Spratly Islands due to the area they cover and the activity that has surrounded them by the respective claimants. The Paracel Islands and Pratas Island are similar in their physical properties to the Spratlys, but cover a smaller geographic area, and have not been subject to the build-up that the Spratly Islands have seen.

As was stated earlier, the Spratly Islands is mostly coral reefs and seamounts. The total land area above the water at high tide is less than 5 sq kilometers (1.9 sq miles). The high point in the island chain is 4 meters on Southeast Cay.⁴⁵ There is truly not much "land" from which to work. Claimant nations have traditionally constructed hastily built shelters in order to establish its claim on an "island" (see figure 7). Soldiers from the claimant nation continuously (or near continuously) man these island positions. This will be examined more fully in the discussion on factor force.



Figure 7. Soldiers stationed in a hut on an 'island',⁴⁶

With respect to the Law of the Sea, these established positions are not sufficient to warrant recognition of a territorial sea claim. Many of these “islands” are considered “low tide elevations” as they are not above water at high tide. UNCLOS directs that low tide elevations that are located *beyond* the territorial sea of the nation shall not have a territorial sea of its own. To claim a territorial sea, the “island” must be above water at high tide. Perhaps even more important to the claimants, to claim a continental shelf and an exclusive economic zone, the “island” must be capable of sustaining human habitation or economic life on its own.

Recent construction on the Spratly Islands has shown two methods the claimant states have used to try to bolster their claim. First is the method of floating a pre-fabricated structure out to the Spratlys and sinking it down on top of a reef (see figure 8). The

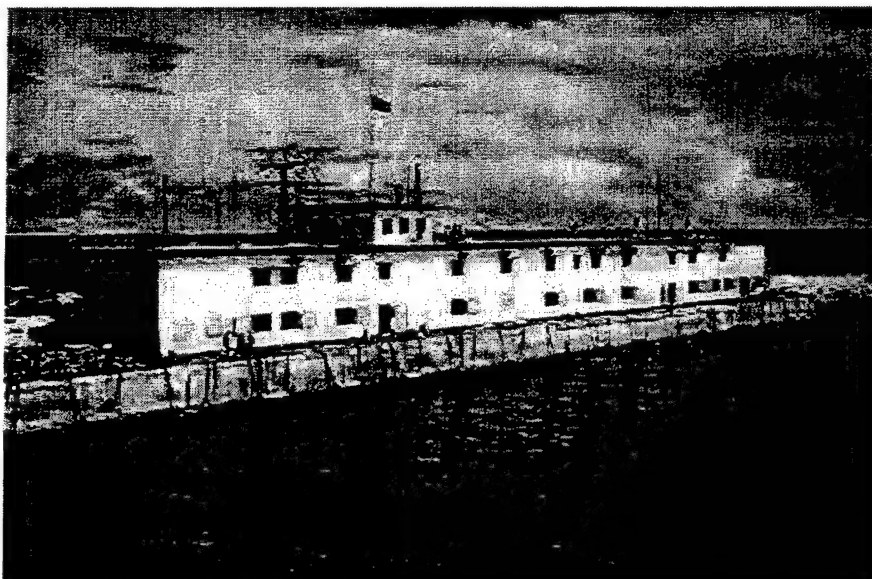


Figure 8. Military position / weather station at Fiery Cross Reef⁴⁷

second method is to bring soil from the mainland and build an island on top of the existing reef (see figures 9 and 10). Neither of these methods meets the requirements of



Figure 9. Swallow Reef – Before⁴⁸

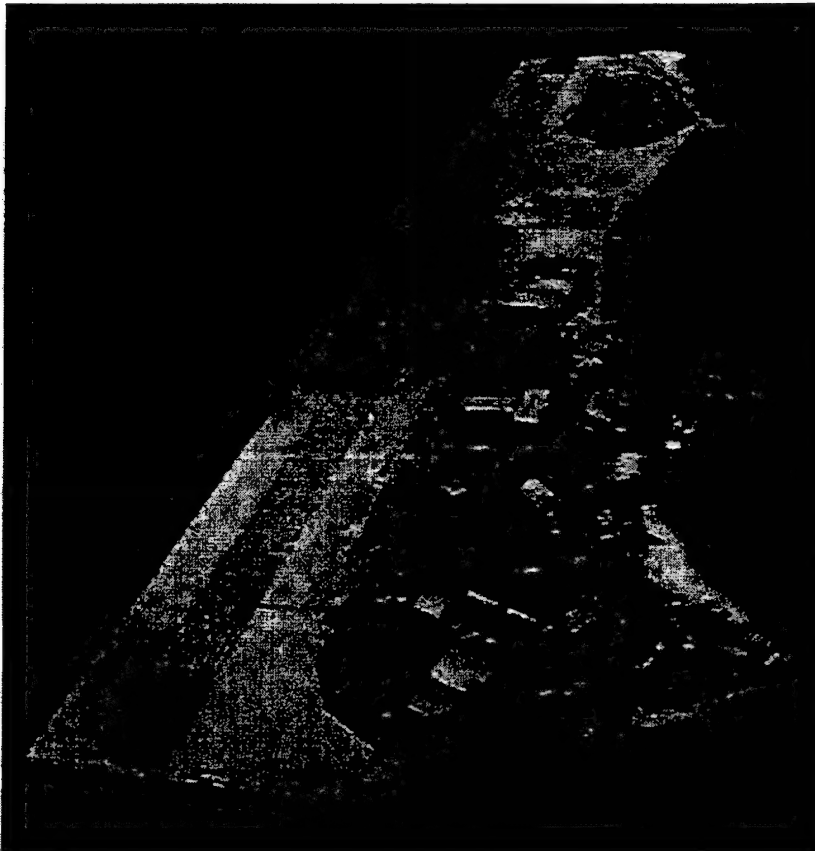


Figure 10. Swallow Reef – Now⁴⁹

UNCLOS, which states that, “artificial islands and off-shore installations have no territorial sea of their own.”⁵⁰

Weather may also play a part in the more permanent structures being constructed on the islands. The Spratly Islands lie in an area subject to violent typhoons every year. Structures are routinely destroyed by these storms and must be rebuilt. These structures are often evacuated during the typhoon conditions. Even though none of the claimant nations have used this as an opportunity in the past, the non-occupation and subsequent destruction of a competitor’s claim could provide an opportunity for expansion. This would not bode well for the stability of the region.

Factor Force – South China Sea

Factor force is the means by which to carry out military operations. The operational commander must be concerned not only with the forces he brings to the operation, but also forces that may oppose operations in the area.

The South China Sea islands have been occupied almost exclusively by military personnel. China maintains military forces on the Paracel Islands, and the five nations that maintain occupying forces on the Spratly Islands do so with military forces (see figure 11). While both the Chinese (in the Paracels) and the Malaysians (at Swallow Reef) are making plans to use the islands for the tourist trade, most business operations to date have been accomplished by the occupying military forces.

“Military skirmishes have occurred numerous times in the past two decades. The most serious occurred in 1976, when China invaded and captured the Paracel Islands from Vietnam, and in 1988, when Chinese and Vietnamese navies clashed at Johnson Reef in the Spratly Islands, sinking several Vietnamese boats and killing over 70 sailors.”⁵¹



Figure 11. Sovereignty marker on an 'island'⁵²

Appendix A lists military conflicts that have occurred over the South China Sea islands in the past two decades.

The South China Sea islands have been militarized by the occupying nations. In addition to military forces and the small arms they carry, most occupied islands are also outfitted with anti-aircraft guns and naval guns. Four aircraft runways have been built in the Spratly Islands (only 1 is paved), but many of the other structures have helipads, which have been used by naval helicopters. Armament on the islands has been structured around the defense – to protect claims from encroachers.

Dangerous trends in factor force can be seen in the Spratly Islands. In the past two decades all five claimants have made moves to increase the number of 'islands' they

claim in the Spratlys. Vietnam has been the most aggressive in this area, followed by the PRC. Each of these occupying nations appears to have increased funding to outfit the islands they claim. Structures on the islands are increasingly larger and more permanent. Runways and helipads are being constructed. Armament has increased from a couple of soldiers with small arms, to fortified anti-aircraft and naval gun positions. These trends would seem to indicate that the claimants are preparing for a confrontation.

The next logical step would seem to be an increase in the ability to project power in the region. For the Chinese, this next step might be to increase their reach with an anti-air and anti-ship missile systems. The Chinese could easily deploy CSS-N-8 (C-802) 'Saccade' mobile launchers to the islands. With a range of 120,000 meters (75 miles)⁵³, this would significantly improve their ability to project power in the South China Sea. A large portion of the South China Sea SLOCs would fall within the umbrella of such surface-to-surface missile system.

Factor Time – South China Sea

“Time is one of the most precious commodities on the conduct of warfare and is closely related to the factor of space, for time is needed to overcome the factor of space.”⁵⁴

As factor space increases, factor time increases in order to overcome the space. Factor force also influences factor time. If opposing forces deny the use of space between point “A” and point “B,” factor time will increase in that you will have to go around the denied space to get from point “A” to point “B.” This is the crux of the problem in the South China Sea with respect to factor time.

As was stated earlier in this paper, the South China Sea contains major Sea Lines of Communication for numerous commodities for the United States and our trading

partners. If a force were situated in a position to interdict these SLOCs, commerce would not necessarily be shut down completely. For example there are other routes to get oil from the Arabian Gulf to Japan. The quickest route is through the Strait of Malacca, then through the South China Sea to get to Japan. If this route were "closed" to safe transit, seaborne commerce would have to go around the contested area, adding over 1100 nautical miles to the transit.* For a bulk tanker traveling at 15 knots, this would add over 3 days to the transit time.

This increase in time has a snowball effect. Increased transit time means increased costs. Increased transit time also means an increase in the number of tanker/bulk carrier assets necessary to maintain the flow of goods. Closing down the South China Sea to commercial maritime traffic will affect the global economy.

Similar arguments can be made with respect to military operations. Lines of operation and lines of communication could both increase if this area were opposed to military operations. The operational commander will need to factor this into the equation for conducting operations in the theater. These South China Sea islands (both the Paracel and Spratlys) were used by the Japanese for SLOC interdiction during World War II. One might imagine the effect closing the South China Sea lines of communication might have had on the conduct of the Korean and Vietnam wars.

Conclusions and Recommendations

The South China Sea is an area of competing interests. Six nations claim sovereignty over some or all of the South China Sea islands. These same six nations have competing economic claims in the South China Sea. These claims overlap in the most contentious

* Transit south of Indonesia, through the Sunda Strait, the Java Sea, past the east coast of Borneo through the Makassar Strait, through the Celebes Sea, into the Philippine Sea to get to Japan.

spot in the South China Sea – the Spratly Islands (see figure 12). These competing economic claims are particularly volatile, since the South China Sea is believed to hold significant oil and gas deposits.

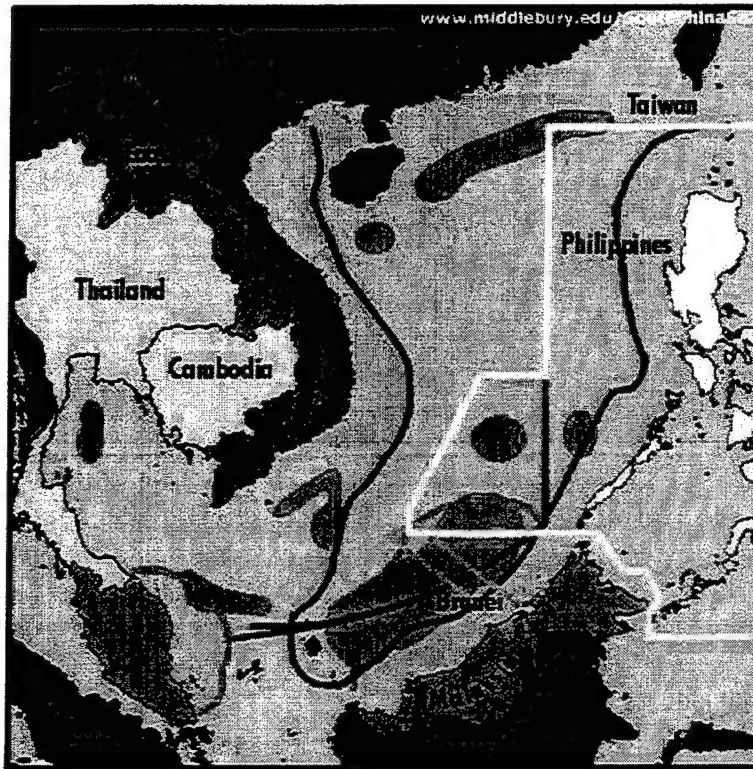


Figure 12. South China Sea oil claims⁵⁵

“China, in particular, has consistently and adamantly proclaimed that its sovereignty over the islands is absolute and nonnegotiable.”⁵⁶ It acted on this claim with respect to the Paracel Islands in 1974. With the Spratly Islands, China has taken a more cautious, piece meal approach to gaining control over the islands. Over the past two decades the PRC has steadily increased their occupation and build-up in the islands.

“The official U.S. policy on the South China Sea is that it takes no position as to the legal merits of competing claims of sovereignty.”⁵⁷ “The Spratlys ownership dispute, however, is more than a regional quarrel over some pin-pricks of land and coral; it has

strategic significance for the U.S. military and political interests in Southeast Asia, including the stability of the ASEAN regional entente, the freedom of naval and commercial maritime transit between the Indian and Pacific Oceans, and the future balance among the great powers...in Southeast Asia.”⁵⁸

The People’s Republic of China has not yet established territorial sea baselines around the Spratly Islands. However, the maritime claims that the PRC has established make a dangerous precedent. First, the archipelagic baselines the PRC established around the Paracel Islands are in violation of the United Nations Convention on the Law of the Sea (UNCLOS). Second, the establishment of territorial sea claims around features in the South China Sea not capable of sustaining human habitation or economic life is also in violation of UNCLOS. Third, the PRC law placing restrictions on the innocent passage of foreign warships in Chinese territorial seas are in violation of international law.

Given the geostrategic position of the Spratly Islands, it would not be in the best interest of the United States or U.S. trading partners to allow the PRC to establish a similar maritime claim in the Spratlys. The possible territorial sea claim, coupled with the increasing militarization of the Spratly Islands, poses a threat to the important Sea Lines of Communication that run through the South China Sea. The establishment of an Exclusive Economic Zone would directly challenge the claims of the other regional powers. Regional stability could quite possibly spiral out of control.

The Commander in Chief (CinC) of the South China Sea region (U.S. PACOM) does not have an active stake in the territorial claims in the Spratly Islands. This is something that will have to be sorted out in the world arena. The CinC’s efforts should focus on actively and routinely challenging the PRC’s excessive maritime claims.

First, CINCPAC should request the NCA push for ratification of the United Nations Convention on Law of the Sea. Although the U.S. has indicated that it would abide by and respect the requirements of UNCLOS, the U.S. remains a non-signatory. If this is the law we expect the rest of the world to live by, then we must lead by example. It is a credibility issue.

Second, schedule regular operations in the South China Sea area of operations. This should include regular freedom of navigation exercises that reinforce the U.S. interpretation of UNCLOS. In particular, operations should focus on the Paracel and Spratly Island maritime claims.

Third, conduct peacetime engagement operations with the South China Sea regional powers. The goal should be to work toward regional military cooperation vice escalation. Dialog and interaction among the regional powers should serve to promote regional stability. Even though it is official U.S. policy to remain neutral with respect to the sovereignty claims in the South China Sea, it would not be in the United States best interest to allow a belligerent nation to occupy and establish territorial claims in the Spratly Islands. Remaining engaged and playing the honest broker should make the final outcome in this region more favorable to the U.S. interests.

APPENDIX A

Table A-1. Military Clashes in the South China Sea Over the Past Two Decades⁵⁹

DATE	COUNTRIES	MILITARY ACTION
1976	China, Vietnam	Chinese seize Paracel Islands from Vietnam
1988	China, Vietnam	Chinese and Vietnamese navies clash at Johnson Reef in the Spratly Islands. Several Vietnamese boats are sunk and over 70 sailors killed.
1992	China, Vietnam	Vietnam accuses China of drilling for oil in Vietnamese waters in the Gulf of Tonkin, and accuses China of landing troops on Da Luc Reef. China seizes almost 20 Vietnamese cargo ships transporting goods from Hong Kong from June – September.
1994	China, Vietnam	China and Vietnam have naval confrontations within Vietnam's internationally recognized territorial waters over oil exploration blocks 133, 134, and 135. Chinese claim area as part of their Wan' Bei-21 (WAB-21) block.
1995	China, Philippines	China occupies Philippine-claimed Mischief Reef. Philippine military evicts the Chinese in March and destroys the Chinese markers.
1995	Taiwan, Vietnam	Taiwanese artillery fire on Vietnamese supply ship.
1996	China, Philippines	In January, three Chinese vessels engage in a 90-minute gun battle with a Philippine navy gunboat near Campones Island.
1997	China, Philippines	The Philippine navy orders a Chinese speedboat and two fishing boats to leave Scarborough Shoal in April; Philippine fishermen remove Chinese markers and raise their flag. China sends three warships to survey Philippine-occupied Panata and Kota Islands.
1998	China, Philippines	In January, the Philippine navy arrests Chinese fishermen off Scarborough Shoal.
1998	Philippines, Vietnam	In January, Vietnamese soldiers fire on a Philippine fishing boat near Tennent (Pigeon) Reef.

APPENDIX B

Table B-1: Disputes Over Drilling and Exploration in the South China Sea⁶⁰

DATE	Countries	DISPUTES
1992	China, Vietnam	China signs a contract with U.S. firm Crestone in May to explore for oil near the Spratly Islands in an area that Vietnam says is located on its continental shelf, over 600 miles south of China's Hainan Island. In September, Vietnam accuses China of drilling for oil in Vietnamese waters in the Gulf of Tonkin.
1994	China, Vietnam	Crestone joins with a Chinese partner to explore China's Wan' Bei-21 (WAB-21) block. Vietnam protests that the exploration is in Vietnamese waters in their blocks 133, 134, and 135.
1996	China, Vietnam	Vietnam leases exploration blocks to U.S. firm Conoco in April. Vietnamese blocks 133 and 134 cover half the zone leased to Crestone by China. In May, China reaffirms a national law claiming the South China Sea as its own.
1997	China, Vietnam	Vietnamese protest after Chinese Kantan-3 oil rig drills near Spratly Islands in March. The drilling occurs offshore Da Nang, in an area Vietnam calls Block 113. The block is located 64 nautical miles off Chan May cape in Vietnam, and 71 nautical miles off China's Hainan Island.

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